

### REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1-8, 10, 12-20, 22, 24, and 26 are pending in this case. Claims 1, 2, 4, 5, 7, 10, 12, 14, and 15 are amended by the present amendment with support in the originally filed disclosure at least at Fig. 4 and the related descriptions and at paragraph [0057] of the published Specification. Thus, no new matter is added.

In the outstanding Office Action, Claim 5 was objected to; Claim 1 was rejected under the judicially created doctrine of non-statutory obviousness type double patenting based on Claim 7 of U.S. Patent No. 7,710,977; and Claims 1-8, 10, 12-20, 22, 24 and 26 were rejected under 35 U.S.C. § 103(a) as unpatentable over Forslow (U.S. Patent No. 6,937,566) in view of Immonen, et al. (U.S. Patent No. 7,010,305, herein “Immonen”), further in view of Hodgkinson, et al. (U.S. Patent No. 7,209,437, herein “Hodgkinson”).

At the outset, Applicants and Applicants’ representative thank Examiner Murphy for the courtesy of an interview with Applicants’ representative on August 11, 2010. The discussion during that interview is substantially reflected in the amendments and remarks herein.

In view of the amendments to Claim 5, Applicants respectfully request that the objection to Claim 5 be withdrawn.

With regard to the rejection of Claim 1 under the judicially created doctrine of non-statutory obviousness type double patenting, Applicants note, as discussed during the interview, that Claim 7 of U.S. Patent No. 7,710,977 fails to teach or suggest every element of Claim 1.

For example, Claim 7 recites classification of packets by a base station “into two or more groups based on the determined communication qualities of the wireless terminals and

the quality ranges” which are recited as being set by the base station “based on the monitored communication qualities.” However, nothing in Claim 7 teaches or suggests any packet having a request value included in the packet or classification of packets based on the packets having or not having a request value included in or attributed to the packet.

Yet, the differences between Claim 1 and Claim 7 of U.S. Patent No. 7,710,977 are not shown to be obvious by any rationale. That is, no other reference or assertion of inherency or Official Notice is cited to bridge the gaps between Claim 1 and Claim 7 of U.S. Patent No. 7,710,977. Thus, because Claim 7 of U.S. Patent No. 7,710,977 does not establish a *prima facie* case of obviousness against Claim 1, Applicants respectfully request that the rejection of Claim 1 under the judicially created doctrine of non-statutory obviousness type double patenting based on Claim 7 of U.S. Patent No. 7,710,977 be withdrawn.

With regard to the rejections of the pending claims based on Forslow, Immonen, and Hodgkinson, the deficiencies of the combination of references with regard to at least independent Claims 1, 14, and 15 were discussed during the interview.

As an example of a deficiency of the combination, the outstanding Office Action asserts, at page 6, that Forslow teaches a relative guarantee type packet with the description of a best effort quality of service used for RSVP messages. However, the RSVP messages are not subject to any classification or transmission order control by the base station of Forslow at all. Instead, the RSVP messages are received from the mobile terminal prior to packet transmission/reception and are used to request a certain quality of service for an application flow. During the interview, Examiner Murphy indicated agreement with the Interview Agenda which stated that the RSVP messages of Forslow cannot be asserted as relative guarantee type packets.

Thus, Applicants submit that the previously presented claims patentably define over the cited references and respectfully request that the rejection under 35 U.S.C. § 103(a) of

Claim 1, Claims 2-8, 10, 12, 13, 16, 17, and 22, which depend therefrom, Claim 14, Claims 18, 19, and 24, which depend therefrom, Claim 15, and Claims 20 and 26, which depend therefrom, be withdrawn.

However, Claims 1, 14, and 15 are also amended for additional clarification, based on the discussion during the interview, to expedite the prosecution of the application.

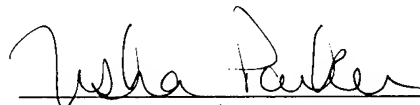
Specifically, each of the independent Claims 1, 14, and 15 is amended to recite "the transmission order of each quantitative guarantee type packet in the quantitative guarantee type buffer being based on a corresponding quantitative value *and independent of a respective mobile station from/to which the packet is received/transmitted.*"

During the interview, Examiner Murphy indicated that the clarification, which is implied in the recitation of the packet classification unit of Claim 1, for example, is likely to expedite prosecution of this case based on previously reviewed art.

In view of the discussion above and the additional amendments herein, the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Bradley D. Lytle  
Attorney of Record  
Registration No. 40,073

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 03/06)

Usha Munukutla-Parker  
Registration No. 61,939